THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.NO.27741 OF 2005

Between:

Dolphin Bar and Restaurant and another

… Petitioners

AND

The Commissioner of Police Hyderabad

Basheerbagh, Hyderabad

& others.

… Respondents

THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.NO.27741 OF 2005

ORDER:

This writ petition is filed to declare the action of the respondents in interfering and preventing the petitioners from running Bar and Restaurant in providing entertainment by way of live band/Orchestra with male and female singers in the petitioner's premises, as arbitrary, illegal and violative of the Judgment of the Apex Court and consequently permit them for conducting the

Orchestra/Live Band with male and female singers in their premises.

The case of the petitioners is that they are licence holders for running Bar and Restaurant. They have obtained licence from the Excise authorities to vend liquor in retail in the Bar in accordance with the provisions of the A.P. Excise Act and Rules and renewing the licence from time to time. Apart from the sale of liquor, the petitioners are also serving food. Being the public place of amusement, the petitioners are required to take licence from the Commissioner of Police, Hyderabad; and that the first petitioner obtained licence for establishment of a public entertainment (category II) on 14.06.2004 vide licence No.L&O/A4/415/2004 and the said licence was subsequently renewed. In so far as second petitioner is concerned, he has obtained licence bearing No.71/04, dated 26.07.2004 was said to have been renewed. But I do not see any endorsement of any one on the licence of second petitioner is concerned. The petitioners further contended that the said licence granted for establishment of public place of amusement subject to certain special conditions authorizing the petitioners to transact the liquor business from 10 AM to 11 PM under the relevant excise rules and condition No.12 goes to show that the licence shall not make use of the loud speaker or radio except under the special circumstances in such public places of halting which is situated on the joint of four roads, three roads or cross roads and which has no footpaths in front of it. As per condition No.11 no person, who has established a public place of halting shall use the loud speaker in the public place halting during the other timings than those which have been permitted by the Commissioner of Police, Hyderabad city. It is not known whether any permission has been given to the petitioners either to have a loud speakers or live band/Orchestra to be played with men and women. But however, it is stated that the first petitioner has made representations on 05.04.2005 and 21.12.2005 and the second petitioner on 05.12.2005 and 26.12.2005 for permitting them to have a live band/Orchestra with male and female singers.

The learned counsel for the petitioners submits that a batch of writ petitions has been disposed of on 09-11-2005 directing the first respondent to consider and pass appropriate orders on the representations made by the petitioners therein. As the respondents have so far not complied with the orders, the writ petitioners preferred a batch of writ appeals which were

disposed of by a Division Bench of this Court, on 23.12.2005, directing the respondents to pass appropriate orders on the representations of the applicants and the applicants were allowed to carry on their activities in accordance with the licences granted and that if the appellants feel aggrieved by the orders which may be passed by the first respondent, then they shall be free to avail appropriate legal remedy.

Having regard to the facts and circumstances of the case, and following the order of the Division Bench of this Court, the writ petition is disposed of directing the first respondent to consider and pass appropriate orders on the representations made by the petitioners for allowing them to have live band/Orchestra in their Bar and Restaurant with male and female singers in accordance with the licence issued to them. Further, the respondents shall also not interfere with the activity, if the petitioners use live band/Orchestra with men and women singers. However, if other activities are carried out in the Bar and Restaurant, the authorities concerned shall be free to take appropriate action in accordance with law. If the petitioners feel aggrieved by the orders which may be passed by the first respondent, then they shall be free to avail appropriate legal remedy.

With the direction indicated above, the writ petition is disposed of in terms of the Judgment of the Division Bench in a batch of writ appeals. No costs.

_____

28-12-2005

Kvrm